

Appl. No. 10/632,752

Amdt. dated 4/22/05

Reply to Office action of March 29, 2005

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

Applicants acknowledge the Examiner's confirmation of receipt of Applicants' certified copy of the priority document for German Patent Application 102 35 255.0, filed August 1, 2002 supporting the claim for priority under 35 U.S.C. § 119.

Claims 1-18 remain in the application. Claims 11-18 are subject to examination and claims 1-10 have been withdrawn from examination. Claim 11 has been amended. No claims have been added or canceled.

In the second paragraph on page 2 of the above-identified Office Action, the Examiner objected to the specification and claims. More specifically, the Examiner stated that the phrase "doped with a doping" on page 10, line 1 of the Specification and in claim 11, was objected to.

This wording was intended to state that the material of the capping layer 12 is doped with a doping 18. However, to facilitate prosecution of the instant application, the objectionable wording has been deleted.

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Additionally, the Examiner stated that the last line of claim 11 was unclear. That phrase has been amended to now state "and said oxide layer including a region having a layer thickness with the same doping as said capping layer, said same doping being incorporated into an oxide of said oxide layer." Once again, this phrase is intended to mean that the layer 15 has a region with the same doping as the layer 12 and that same doping is incorporated into the oxide of the layer 15.

It is accordingly believed that the objections to the claim and the Specification have been overcome. The above-noted changes to the claims are provided solely for clarification or cosmetic reasons. The changes are neither provided for overcoming the prior art nor do they narrow the scope of the claim for any reason related to the statutory requirements for a patent.

On pages 2-4 of the Office Action, claims 11-18 have been rejected as being obvious over U.S. Patent No. 6,673,524 to Ghandehari et al. (hereinafter Ghandehari) in view of U.S. Patent Application Publication No. US 2005/0048800 A1 to Wagener under 35 U.S.C. § 103(a).

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While the rejection under 35 USC § 103 is noted, Applicants respectfully submit, as will be seen from the following, that Wagener is not available as a prior art reference against the instant application.

Applicants respectfully note that Wagener has a United States filing date of July 31, 2003, the filing date of Provisional Application No. 60/491,850. See 35 U.S.C. § 102(e). As set forth in the Declaration of record, the instant application claims international priority of German Application 102 35 255.0, filed August 1, 2002, under 35 U.S.C. § 119. Pursuant to 35 U.S.C. §§ 119, Applicants are entitled to the priority date of the German application. See MPEP § 201.13. Thus, the instant application predates Wagener by almost exactly one year. Because Wagener was filed after the priority date of the instant application, Applicants respectfully believe that Wagener is unavailable to be cited as prior art against the instant application.

Applicants acknowledge that perfection of priority can only be obtained by filing a certified English translation of the German priority application. See 35 U.S.C. § 119.

Applicants filed a Claim for Priority and a certified copy of German application 102 35 255.0 on September 11, 2003.

Concurrent herewith, Applicants are filing a certified

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English translation of same. Accordingly, Applicants respectfully believe that priority has been perfected and Wagener is unavailable as prior art. Therefore, Applicants respectfully submit that the Section 103 rejection on pages 2 to 4 of the Office action is now moot.

In light of the above, Applicants believe that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 11 through 18. Claims 11 through 18 are, therefore, believed to be patentable over the art.

In view of the foregoing, reconsideration and allowance of claims 11-18 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

If an extension of time is required, petition for extension is herewith made. Any extension fee associated therewith should be charged to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

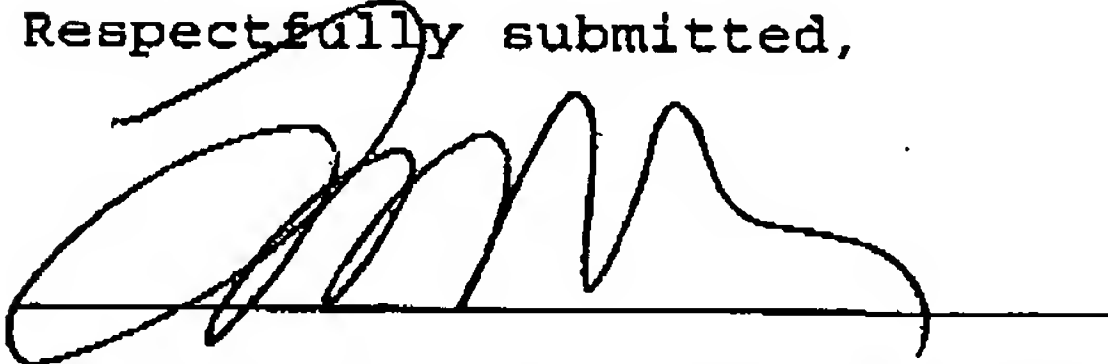
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Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'LAG', is written over a horizontal line.

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LAG/bb

April 22, 2005

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